

Regular Meeting.....	March 17, 2004
Location	6900 Atmore Drive Richmond, Virginia
Presiding.....	Clay B. Hester, Chairman
Present.....	James H. Burrell Jacqueline F. Fraser Gregory M. Kallen Reneé T. Maxey R. W. Mitchell Sterling C. Proffitt W. Randy Wright
Absent.....	Donald L. Cahill

6900 Atmore Drive, Richmond, Virginia

I. Board Chairman (Mr. Hester)

The *MOTION* was duly made by Mr. Mitchell and seconded by Mr. Wright. The *MOTION* was unanimously *APPROVED* by verbally responding in the affirmative (Burrell, Fraser, Kallen, Maxey, Mitchell, Proffitt, Wright). As a tie-breaking vote was not necessary, the Chairman's vote was not noted. One member was absent.

The Chairman noted for the record that no one from the general public was present requesting to speak to the Board.

The Committee met on March 16. The Chairman of the Board as well as Members Fraser and Burrell were in attendance. Mr. Barry Green, Deputy Secretary of Public Safety, also joined meeting attendees. The meeting was chaired by Superintendent Roy Cherry and was very well attended.

Ms. Kim Lipp presented updated information with reference to the St. Brides construction project and remarked that if the project receives funding as proposed under the Governor's budget, work will start this summer on Phase II. Mr. Ron Elliott followed with a report on the population of jails and prisons. The prison population has experienced an increase of 360 inmates since January 5. As of March 8, the Department population stood at 31,005. The jails have experienced an increase of 2,064 since

November 18. The jail population stood at 24,941. Since last meeting, a decrease was noted in the number of felons available for pickup, and there was a noticeable drop in the out-of-compliance figure. Mr. Proffitt stated that the Director and staff should be commended for their efforts to reduce the out-of-compliance numbers. Deputy Secretary Green reported that the state would be picking up more beds as a result of the departure of Vermont and Connecticut inmates but that the Commonwealth would be losing somewhere in the neighborhood of \$20 million as a result of their leaving.

During his report, Mr. Elliott remarked that the Middle River Regional Jail Authority would be requesting approval for additional jail construction funding from the Board as the project has come in over budget. In addition, in the coming year, nine or ten jail construction projects will be coming to the Board for approval.

During his committee presentation, Mr. James Matthews of the State Compensation Board noted there was proposed budget language which would cut per diems paid to local jails to the tune of \$16.2 million in the next biennium which would mean localities will have to make up the lost funds in other ways.

Mr. Proffitt continued with his report. He noted that as a result of past Committee discussions, Sheriff Kitchen had asked the Attorney General's office for an official opinion as to the application of Code §53.1-116 to contempt proceedings, and whether good conduct credits may be awarded to persons confined in a local jail for contempt of court for failure to make court-ordered support payments. Initially, the question arose because there were different interpretations as to how to apply the section.

The AG's office has responded and indicates the sheriff or jail superintendent responsible for determining the length of a jail inmate's term of confinement must ascertain whether the individual is being detained pursuant to a civil or a criminal contempt finding and award only those prisoners serving criminal contempt sentences the good conduct credits in §53.1-116(A). The AG concluded the intent of §53.1-116(A) is that prisoners sentenced to 12 months or less in jail for misdemeanors shall earn good conduct credits to reduce the length of their imprisonment. Section 53.1-116 applies solely to prisoners serving criminal sentences. Therefore, the sheriff or jail superintendent responsible for determining the length of a jail inmate's term of confinement must ascertain whether the individual is being detained pursuant to a civil or a criminal contempt finding and award only those prisoners serving criminal contempt sentences the good conduct credits prescribed in §53.1-116(A).

Mr. Proffitt noted there were additional general comments and discussion prior to the conclusion of the Committee meeting. After the call for question or discussion, the report was concluded. There was no motion on the report.

IV. Administration Committee (Mr. Kallen)

1. Overtime Report for 2d Quarter Ended December 31, 2003

Mr. Kallen noted an increase in overtime of 63.68% over the same period last year. The increase was attributed to three factors: the number of correctional officers called to active military duty; the number of correctional officers on short-term disability; and the hiring away of correctional officers to new federal and regional jail facilities.

**2. Office of Inspector General Annual Report for Year Ended 6/30/03
(For Informational Purposes Only – No Board Action Required)**

With reference to the Office of Inspector General Annual Report provided to the Board in its package, Ms. Fraser stated she found the report very reader friendly. She voiced several concerns with reference to certain findings in the report. In addressing Ms. Fraser's concerns, the Inspector General responded that Internal Audit monitors and reviews each of the plans of action submitted in response to deficiencies and ensures that corrective action plans are in place so the same deficiencies do not recur.

After the call for questions or comments, the report was concluded. There was no motion.

V. Correctional Services Committee Report/Policy & Regulations (Ms. Maxey)

Ms. Maxey began her report by first briefly explaining each of the Standards for which waivers had been requested. By *MOTION* duly made by Ms. Maxey and seconded by Ms. Fraser, the following recommendations were presented to the Board for approval:

Unconditional Certification for:

Buckingham Correctional Center with approval of waivers for Standards 3-4128-1, 3-4134, 3-4148, 3-4258 and 3-4455.

Pulaski Correctional Field Unit #1 with approval of waivers for Standards 3-4132, 3-4133, 3-4134.

Patrick Henry Correctional Field Unit #28 with approval of waivers for Standards 3-4136, 3-4147, 3-4258 and 3-4424.

And **Unconditional Certification** for the following jails and lockups as a result of **100% compliance**:

Virginia Peninsula Regional Jail; Rockbridge Regional Jail; Piedmont Regional Jail with approval to hold male and female juveniles in accordance with §16.1-249(g) of the Code of Virginia; and **Greene County Lockup** with approval to hold male and female juveniles in accordance with §16.1-249(g) of the Code of Virginia.

After the call for question and discussion, the *MOTION* was unanimously *APPROVED* by verbally responding in the affirmative (Burrell, Fraser, Kallen, Maxey, Mitchell, Proffitt, Wright). As a tie-breaking vote was not necessary, the Chairman's vote was not noted. There was one member absent.

Ms. Maxey then went on to briefly explain additional Standards for which waivers had been requested after which she offered the following recommendations for approval by the Board:

Unconditional Certification for the following jails as a result of their certification audit:

Roanoke City Jail with approval of waivers and appeals as approved by the ACA Commission on Accreditation and waivers for Standards 2E-01, 5C-01, 4B-04-1,2,4,5 and 6.

Riverside Regional Jail with approval of waivers and appeals as approved by the ACA Commission on Accreditation and waiver for Standards 4B-03 and 2C-02.

Arlington County Adult Detention Center with waivers and appeals as approved by the ACA Commission on Accreditation.

And, **Unconditional Certification** for **Charlotte County Jail, Probation & Parole District #4 (Accomac), and Hegira House.**

By *MOTION* duly made by Ms. Maxey and seconded by Ms. Fraser, the *MOTION* was unanimously *APPROVED* by verbally responding in the affirmative (Burrell, Fraser, Kallen, Maxey, Mitchell, Proffitt, Wright). As a tie-breaking vote was not necessary, the Chairman's vote was not noted. One member was absent.

For the record it was noted that the **Appomattox County Jail** achieved **100% compliance with its unannounced inspection**. This was provided for informational purposes only. No Board action is required.

Request by Middle River Regional Jail Authority for Additional State Jail Construction Funding Reimbursement Due to Higher-Than-Expected Bid Quotes

By *MOTION* duly made by Ms. Maxey, seconded by Ms. Fraser and unanimously *APPROVED* by verbally responding in the affirmative (Burrell, Fraser, Kallen, Maxey, Mitchell, Proffitt, Wright), the following was read into the record:

“The Board of Corrections approves the Middle River Regional Jail Authority's request for additional state jail construction funding reimbursement for the construction of its 396-bed jail project in the amount of \$2,324,129 or 50% of approved eligible costs of \$4,648,258. This amount changes the project's total approved cost of \$43,957,360 of which \$21,978,680 or 50% would be state reimbursable. Such reimbursement is contingent on the reenactment of enabling exemption criteria in the 2004 Virginia Acts of Assembly and subject to the availability of funds and compliance with Sections 53.1-80 through 82 of the Code of Virginia.”

As a tie-breaking vote was not necessary, the Chairman's vote was not noted. One member was absent.

In closing, Ms. Maxey noted that Friends of Guest House will appear on the May agenda. The report was concluded.

VI. Other Business (Mr. Johnson)

The Director stated he did not know of any news to pass on. He congratulated Mr. Gary Bass on the great job being done getting people out of local jails. He noted that all of the Vermont inmates are gone, resulting in 500 beds being picked up. Connecticut inmates will be departing sometime this fall as its contract will not be extended. Vermont currently has an RFP on the street and is looking to send 2500 of their inmates out of state. Their departure from the Commonwealth will ultimately result in an additional 500 beds.

The Director had nothing further.

VII. Closed Session

The Chairman noted it was time for Closed Session as noted on the agenda. Department staff exited the meeting room. Mr. Johnson, Mr. Jabe, Ms. Kimbriel, Mr. Broughton, Mr. Katz, Mr. Harker, and Mrs. Woodhouse remained.

By *MOTION* duly read by Mr. Kallen and unanimously *AFFIRMED* by the verbal response of each of the following (Burrell, Fraser, Hester, Kallen, Maxey, Mitchell, Proffitt, Wright), it was moved that the Board reconvene in Closed Session pursuant to Section 2.2-3711(a)(19), for those portions of meetings in which the Board of Corrections discussed or discloses the identity of, or information tending to identify, any prisoner who (i) provides information about crimes or criminal activities, (ii) renders assistance in preventing the escape of another prisoner or in the apprehension of an escaped prisoner, or (iii) voluntarily or at the instance of a prison official renders other extraordinary services, the disclosure of which is likely to jeopardize the prisoner's life or safety.

No opposing votes were noted. Mr. Cahill was absent.

The Closed Session was held off the record.

The record was reopened and an individual roll call vote was taken by Mrs. Woodhouse whereby Board members were requested to vote that to the best of their knowledge, only public business matters lawfully exempted from Open Meeting requirements by Virginia law were discussed in the Closed Meeting, and only such business matters as were identified in the motion convening the Closed Meeting were heard, discussed, or considered. The eight Board members noted in the motion going into the Closed Session verbally responded in the affirmative. No opposing votes were noted. Mr. Cahill was absent.

Discussions during the Closed Session resulted in the following Motions being made on the record:

By *MOTION* duly made by Mr. Wright, seconded by Mr. Kallen and after the call, all 8 members present unanimously responding in the affirmative (Burrell, Fraser, Hester, Kallen, Maxey, Mitchell, Proffitt, Wright), the recommended sentence reduction in **Case #1** was ***NOT APPROVED*** as presented. There was one absence.

By *MOTION* duly made by Mr. Wright, seconded by Mr. Kallen and after the call, all 8 members present unanimously responding in the affirmative (Burrell, Fraser, Hester, Kallen, Maxey, Mitchell, Proffitt, Wright), the recommended sentence reduction in **Case #2** was ***APPROVED*** as presented. There was one absence.

By *MOTION* duly made by Mr. Wright, seconded by Mr. Kallen and after the call, all 8 members present unanimously responding in the affirmative (Burrell, Fraser, Hester, Kallen, Maxey, Mitchell, Proffitt, Wright), the recommended sentence reduction in **Case #3** was ***APPROVED*** as presented. There was once absence.

The Closed Session portion of the agenda was concluded.

VIII. Member and General Comment

After a brief discussion led by Mr. Harker of the Parole Board, including statements as to how the Parole Board appreciates the good work provided by the Department and that the Department continues to serve the Parole Board very well, the Chairman noted one item for informational purposes; that being, the Board was served with a subpoena duces tecum and that the Department has responded, as keeper of the records for the Board, and the requested documents were provided. No action is required by the Board.

Mr. Wright requested he be provided with reports showing capacity versus current population for both local jails and state facilities. This report should be a listing by facility. The Director responded that the Department would get the information to him as soon as possible.

Mr. Proffitt noted that the Chairman would be the Keynote Speaker at the upcoming Regional Jails Association Conference in Charlottesville.

There being no further discussion, the Chairman moved to conclude the meeting.

Future Meeting Plans

This information is provided for the purposes of the record. No discussion was held with reference to the upcoming schedule during the Board Meeting.

The May meetings are scheduled as follows:

Liaison Committee – 10:00 a.m., Board Room, 6900 Atmore Drive, Richmond, Virginia, May 18, 2004.

Correctional Services/Policy & Regulations Committee – 1:00 p.m., Board Room, 6900 Atmore Drive, Richmond, Virginia, May 18, 2004.

Administration Committee – 9:30 a.m., Room 3065, 6900 Atmore Drive, Richmond, Virginia, May 19, 2004.

Board Meeting – 10:00 a.m., Board Room, 6900 Atmore Drive, Richmond, Virginia, May 19, 2004.

IX. Adjournment

There being nothing further, by *MOTION* duly made by Mr. Wright, seconded by Ms. Maxey and unanimously *APPROVED* by those members in attendance (Burrell, Fraser, Kallen, Maxey, Mitchell, Proffitt, Wright), the meeting was adjourned. As a tie-breaking vote was not necessary, a vote by the Chairman was not noted. There was one absence.

(Signature copy on file)

CLAY B. HESTER, CHAIRMAN

RAYMOND W. MITCHELL, SECRETARY